

INTERNATIONAL SEARCH REPORT

International Application No
PCT/EP2004/009560

A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A23D7/005 A23C9/15 A23D7/02 A23C13/14

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A23D A23C

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 0 603 981 A (VER COOP MELKIND) 29 June 1994 (1994-06-29) cited in the application	1-6,9-11
Y	page 2, line 56 - page 3, line 50; claim 1; example 1; table 4	7,8
X	EP 1 201 134 A (KRAFT FOODS HOLDINGS INC) 2 May 2002 (2002-05-02) cited in the application	1-6,9-11
Y	page 3, line 1 - line 15; claims 1,2,9; figure 1 page 3, line 55 - line 58	7,8
Y	EP 0 560 429 A (UNILEVER PLC ; UNILEVER NV (NL)) 15 September 1993 (1993-09-15) claims 1,4,5,7	7,8
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☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents :

A document defining the general state of the art which is not considered to be of particular relevance

C earlier document but published on or after the international filing date

D document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another claim or other special reason (as specified)

O document referring to an oral disclosure, use, exhibition or other means

P document published prior to the international filing date but later than the priority date claimed

T later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

X document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

Y document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

E document member of the same patent family

Date of the actual completion of the international search

13 October 2004

Date of mailing of the international search report

22/10/2004

Name and mailing address of the ISA

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Smeets, D

INTERNATIONAL SEARCH REPORT

International Application No
PCT/EP2004/009560

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	DE 39 07 676 A (KRAFT EUROP R & D INC) 22 November 1990 (1990-11-22) cited in the application column 1, line 43 - column 2, line 6 column 4, line 1 - line 14 -----	10
X	WO 97/08956 A (UNILEVER PLC ;UNILEVER NV (NL)) 13 March 1997 (1997-03-13) cited in the application page 7, line 12 - line 30; claim 1; examples -----	10
X	WO 03/043430 A (FOSTER TIMOTHY JOHN ;LUNDIN LEIF ORJAN (GB); UNILEVER PLC (GB); LE) 30 May 2003 (2003-05-30) cited in the application page 9, paragraph 2; claims; examples -----	10
A	US 5 698 254 A (CAMPBELL IAIN JAMES ET AL) 16 December 1997 (1997-12-16) column 4, line 20 - line 45; examples -----	1-11

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/EP2004/009560

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
EP 0603981	A	29-06-1994	NL 9202245 A DE 69305312 D1 DE 69305312 T2 DK 603981 T3 EP 0603981 A1 FI 935761 A	18-07-1994 14-11-1996 28-05-1997 17-03-1997 29-06-1994 24-06-1994
EP 1201134	A	02-05-2002	US 6419975 B1 AU 7938001 A CA 2358364 A1 EP 1201134 A2 JP 2002186423 A	10-07-2002 02-05-2002 25-04-2002 02-05-2002 02-07-2002
EP 0560429	A	15-09-1993	AU 3521293 A CA 2091421 A1 EP 0560429 A1 US 5352474 A ZA 9301755 A	23-09-1993 12-09-1993 15-09-1993 04-10-1994 11-09-1994
DE 3907676	A	22-11-1990	DE 3907676 A1 GB 2229077 A , B	22-11-1990 19-09-1990
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WO 03043430	A	30-05-2003	CA 2467742 A1 WO 03043430 A1 EP 1446018 A1	30-05-2003 30-05-2003 18-08-2004
US 5698254	A	16-12-1997	AT 142848 T AU 691167 B2 AU 5815994 A CA 2154085 A1 DE 69400575 D1 DE 69400575 T2 WO 9415477 A1 EP 0679059 A1 ES 2092889 T3 JP 8505287 T KR 184645 B1 ZA 9400159 A	15-10-1996 14-05-1998 15-08-1994 21-07-1994 24-10-1996 20-02-1997 21-07-1994 02-11-1995 01-12-1996 11-06-1996 20-03-1999 11-07-1995

PATENT COOPERATION TREATY

PCT


INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D. 03 MAR 2006

PCT

Applicant's or agent's file reference	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/009560	International filing date (day/month/year) 26.08.2004	Priority date (day/month/year) 10.10.2003	
International Patent Classification (IPC) or national classification and IPC A23D7/005, A23C9/15, A23D7/02, A23C13/14			
Applicant UNILEVER N.V.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 04.12.2004		Date of completion of this report 02.03.2006	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Smeets, D Telephone No. +49 89 2399-	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/009560

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-20 as originally filed

Claims, Numbers

1-11 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/009560

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	7,8
	No: Claims	1-6,9-11
Inventive step (IS)	Yes: Claims	
	No: Claims	1-11
Industrial applicability (IA)	Yes: Claims	1-11
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V.

1. The following documents are referred to in this communication:

D1: EP-A-0 603 981 (VER COOP MELKIND) 29 June 1994 (1994-06-29)
D2: EP-A-1 201 134 (KRAFT FOODS HOLDINGS INC) 2 May 2002 (2002-05-02)
D3: EP-A-0 560 429 (UNILEVER PLC ; UNILEVER NV (NL)) 15 September 1993 (1993-09-15)
D4: DE 39 07 676 A (KRAFT EUROP R & D INC) 22 November 1990 (1990-11-22)
D5: WO 97/08956 A (UNILEVER PLC ; UNILEVER NV (NL)) 13 March 1997 (1997-03-13)
D6: WO 03/043430 A (FOSTER TIMOTHY JOHN ; LUNDIN LEIF ORJAN (GB); UNILEVER PLC (GB); LE) 30 May 2003 (2003-05-30)

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-6, 9-11 is not new in the sense of Article 33(2) PCT.

- 2.1 First, it is pointed out that the expression "partly crystalline" used in claims 1-11 is vague (Art. 6 PCT) and extends the scope of said claims in an unclear way: Any fat (e.g. milk fat) can have a "partly crystalline" state at a temperature below 60°C.

Thus, the feature "partly crystalline" is not a limiting product feature and is therefore not taken into consideration for assessing novelty and inventive step.

- 2.2 D1 (page 2, lines 56 - page 3, line 50; claim 1; example 1; table 4) and D2 (page 3, lines 1-15; claims 1,2,9; figure 1, page 3, lines 55-58) anticipate the subject-matter of claims 1-6, 9-11 on file. Moreover, the SFC profile of butter corresponds to the values as described on page 6, paragraph 3 of the description. Vegetable fats or mixtures of vegetable fats are also described in D1 and D2.

- 2.3 The process of claim 1 does not imply distinguishing product features on the product (see also the PCT Guidelines A5.26). Therefore, D4-D6 also anticipate the subject-matter of claim 10.

3. The present application does not meet the criteria of Article 33(1) PCT, because

the subject-matter of claims 7,8 does not involve an inventive step in the sense of Article 33(3) PCT.

3.1 The objective technical problem underlying the subject-matter of claims 7 and 8 is an alternative fat blend for preparing water continuous acidified emulsions.

3.2 D1 and D2 describe compositions according to claim 1 on file and teach that any vegetable fat blend can be successfully incorporated in the water continuous acidified emulsions.

Incorporating fat blends according to claims 7 and 8 in water-continuous emulsions in known, see, e.g. D3 (claims 1,4,5,7).

The features of claims 7 and 8 are merely a listing of several straightforward possibilities (hardened palm kernel oil, hardened coconut oil) from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill.

4. The applicant is also requested to deal with the following objections:

4.1 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D3 is not mentioned in the description, nor is this document identified therein.

4.2 The abbreviations in claim 7 should be fully explained in the claim (Art. 6 PCT).

4.3 The category of claim 11 (product or process) is unclear (Art. 6 PCT)